

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

Civil Action No. 97-1442-DRD

v.

TROPICAL FRUIT, S.E.;
AVSHALOM LUBIN;
CESAR OTERO ACEVEDO; and
PEDRO TOLEDO GONZALEZ,

Defendants.

NOTICE OF DEFAULT

The United States of America, by the authority of the Attorney General and on behalf of the United States Environmental Protection (“EPA”), respectfully notifies this Honorable Court that Defendants failed to file a response to this Court’s February 8, 2005 Order to Show Cause by the February 28, 2005 deadline set forth in this Court’s February 8, 2005 Order (Docket No. 98). In fact, Defendants have filed no response whatsoever to the United States’ Motion for An Order to Show Cause why Defendants should not be held in civil contempt of and ordered to immediately comply with the Consent Decree entered on October 25, 2001 or to this Court’s February 8, 2005 Order to Show Cause. Accordingly, the United States submits herewith a proposed form of Order which provides the specific requirements necessary for Defendants to achieve compliance with the Consent Decree and respectfully requests that this Honorable Court enter this proposed Order.

Respectfully Submitted,

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division

/s/ Henry S. Friedman

HENRY S. FRIEDMAN, Senior Attorney
USDC - PR # G00105
JEROME MACLAUGHLIN, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
Benjamin Franklin Station
P.O. Box 7611
Washington, D.C. 20044
(202) 514-5268

H.S. GARCIA
United States Attorney
District of Puerto Rico

ISABEL MUÑOZ
Assistant United States Attorney
USDC No. 128302
District of Puerto Rico
Federal Building, Room 452
Chardon Avenue
Hato Rey, Puerto Rico 00918
(787) 766-5656

OF COUNSEL:

ERIC SCHAAF, Deputy Regional Counsel
NAOMI SHAPIRO, Assistant Regional Counsel
LOURDES RODRIGUEZ, Assistant Regional Counsel
U.S. Environmental Protection Agency Region II
290 Broadway, 16th Floor
New York, New York 10007
(212) 637-3221

CERTIFICATE OF SERVICE

I, Henry S. Friedman, hereby certify that copies of the NOTICE OF DEFAULT AND PROPOSED FORM OF ORDER were served on March 22, 2005, by electronic mail to jsifre@sbslaw.com and by first-class mail postage prepaid, as follows:

Jaime Sifre, Esq.
Sanchez, Betances & Sifre
Bolivia # 33, Suite 500
Hato Rey, Puerto Rico 00918

/s/ Henry S. Friedman
HENRY S. FRIEDMAN